

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received: 5/21/2013 Received By: mshovers
Wanted: As time permits Same as LRB:
For: Legislative Fiscal Bureau 6-3013 By/Representing: Olin (FA)
May Contact: Drafter: mshovers
Subject: Local Gov't - counties Addl. Drafters: mkunkel
Local Gov't - munis generally
Public Util. - telco Extra Copies: EVM

Submit via email: YES
Requester's email: Legislative Fiscal Bureau
Carbon copy (CC) to:

Pre Topic:

LFB:.....Olin (FA) -


Topic:

Motion # 151; Mobile tower siting regulations, political subdivision zoning restrictions ✓

Instructions:

See attached. Paper # ?. Same as LRB -0062/2, with addition of material related to commercial and non-commercial radio broadcast facilities

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mshovers	1 SAC 05/24/2013		_____			

FE Sent For:

<END>

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/1	mshovers 5/23/2013	scalvin 5/24/2013	rschluet 5/24/2013	_____	mbarman 5/24/2013		


FE Sent For:

<END>

10 May 2013

Hi Marc:

Yesterday about 6:30 pm, JFC reconsidered an earlier action under levy limits. The Committee expunged its vote on Motion #90 (fee and payment in lieu of tax adjustment) and adopted Motion #159 (attached). It clarifies that the adjustments are prospective.

 Also, with regard to Motion #151 on limiting zoning of local telecommunications towers, could you prepare separate drafts on the two components? That is, could you draft the cell phone tower piece separately from the FM radio tower provision? We have separate staff on the issues so this would facilitate our review. Thanks,

Rick
267-7597

SHARED REVENUE AND TAX RELIEF

La Zich added

Mobile Tower Siting Regulations and Radio Broadcast Service Facilities

Motion:

Move to limit the zoning authority of counties and municipalities by creating a standardized regulatory framework pertaining to any facilities and support structures for providing wireless telecommunications service. Create two separate regulatory frameworks -- one for new structures and class 1 collocations and one for class 2 collocations. Define class 1 collocation as the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification. Define class 2 collocation as the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification. Define mobile service facility as the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure, and define mobile service provider as a person who provides mobile service as defined under federal law. Define support structure as an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure, and define utility pole as a structure owned or operated by an alternative telecommunications utility, public utility, telecommunications utility, county, municipality, or cooperative association, all as defined under current law or under the proposal, and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, video service, or for electricity or to provide light. Define antenna as communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

New Structures and Class 1 Collocations. Specify that a county or municipality may regulate the following only as provided in this proposal and that if a county or municipality has an existing ordinance that applies to the activities described in this proposal and if the ordinance is inconsistent with this proposal, the ordinance shall not apply to, and may not be enforced. Authorize counties and municipalities to regulate through their zoning powers the siting and construction of new mobile service support structures and facilities and the substantial modification of existing support structures and facilities that are class 1 collocations. Require a county or municipality adopting a regulation to prescribe an application process and specify that applications shall be in writing and shall contain: (a) the name and business address of, and the contact individual for, the applicant; (b) the location of the proposed or affected support structure; (c) the location of the proposed mobile service facility; (d) if the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related

equipment associated with the proposed modifications; (e) if the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure; and (f) if an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring either:

- would not result in the same mobile service functionality, coverage, and capacity;
- is technically infeasible; or
- is economically burdensome to the mobile service provider.

Define application as an application for a permit under this proposal and define permit as a permit, other than a building permit, or approval issued by county or municipality which authorizes a class 1 collocation, a class 2 collocation, or the construction of a mobile service support structure. Define building permit as a permit issued by a county or municipality that authorizes an applicant to conduct construction activity that is consistent with the building code of the county or municipality. Define mobile service support structure as a freestanding structure that is designed to support a mobile service facility.

Require the county or municipality to consider the application as complete if an applicant submits an application which contains all of the information required above. If the county or municipality does not believe that the application is complete, require the county or municipality to notify the applicant in writing, within ten days of receiving the application, that the application is not complete. Require the written notification to specify in detail the required information that was incomplete. Allow an applicant to resubmit an application as often as necessary until it is complete. Within 90 days of the receipt of a complete application, require a county or municipality to complete all of the following: (a) review the application to determine whether it complies with all applicable aspects of the county or municipal building code and zoning ordinances; (b) make a final decision whether to approve or disapprove the application; (c) notify the applicant, in writing, of its final decision; and (d) if the decision is to disapprove the application, include with the written notification substantial evidence supporting the decision. Specify that if a county or municipality fails to meet this requirement, the applicant may consider the application approved. Authorize the applicant and the county or municipality to agree in writing to an extension of the 90-day period. Authorize counties and municipalities to disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and the applicant refuses to provide the sworn statement described above. Define search ring as a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area. Authorize a party who is aggrieved by the final decision of a county or municipality to bring an action in the circuit court of the county where the proposed activity, which is the subject of the application, is to be located. If an applicant provides a county or municipality with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a

zoning ordinance, specify that the zoning ordinance does not apply to the structure unless the county or municipality provides the applicant with substantial evidence that the engineering certification is flawed.

Class 2 Collocations. Specify that a class 2 collocation is a permitted use under current law provisions granting counties and municipalities zoning authority and specify that if a county or municipality already has an ordinance in effect that applies to a class 2 collocation and the ordinance is inconsistent with this proposal, the ordinance does not apply to, and may not be enforced against, the class 2 collocation. Authorize counties and municipalities to regulate a class 2 collocation only as provided in this proposal. Specify that a class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject. Specify that an application for a permit to engage in a class 2 collocation shall contain: (a) the name and business address of, and the contact individual for, the applicant; (b) the location of the proposed or affected support structure; and (c) the location of the proposed mobile service facility. Require a county or municipality receiving an application containing that information to consider the application complete and to notify the applicant in writing, within five days of receiving the application, that the application is not complete, if any of the required information is not in the application. Require the written notification to specify in detail the required information that was incomplete, and allow an applicant to resubmit an application as often as necessary until it is complete. Within 45 days of its receipt of a complete application, require a county or municipality to complete all of the following: (a) make a final decision whether to approve or disapprove the application; (b) notify the applicant, in writing, of its final decision; (c) issue the applicant the relevant permit if the application is approved; and (d) include with the written notification substantial evidence which supports the decision, if the decision is to disapprove the application. Specify that the applicant may consider the application approved if the county or municipality does not meet these requirements, except provide that the applicant and the political subdivision may agree in writing to an extension of the 45-day period. Authorize a party who is aggrieved by the final decision of a county or municipality to bring an action in the circuit court of the county where the proposed activity, which is the subject of the application, is to be located.

Limitations. With regard to the construction or substantial modification of facilities and support structures or class 2 collocations, prohibit a county or municipality from doing any of the following: (a) impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers; (b) enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities; (c) enact an ordinance prohibiting the placement of a mobile service support structure in particular locations within the county or municipality; (d) charge a mobile radio service provider any recurring fee for an activity described in this proposal; (e) permit third party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications; (f) disapprove an application to conduct an activity described under this proposal regarding new structures and class 1 collocations based solely on aesthetic concerns; (g) disapprove an application to conduct a class 2 collocation on aesthetic concerns; (h) enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality; (i) impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the county or

municipality which fall into disuse, but specify that there is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this provision; (j) prohibit the placement of emergency power systems; (k) require that a mobile service support structure be placed on property owned by the county or municipality; (l) disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting; (m) condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the county or municipality at less than the market rate, or to provide the county or municipality other services via the structure or facilities at less than the market rate; (n) limit the duration of any permit that is granted; (o) require an applicant to construct a distributed antenna system, defined as a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure, instead of either constructing a new mobile service support structure or engaging in collocation; (p) disapprove an application based on an assessment by the county or municipality of the suitability of other locations for conducting the activity; (q) require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power; (r) impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures; (s) consider an activity a substantial modification as defined under this proposal if a greater height is necessary to avoid interference with an existing antenna; (t) consider an activity a substantial modification as defined under this proposal if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable; (u) limit the height of a mobile service support structure to under 200 feet; (v) condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the county or municipality in connection with the exercise of that government's authority to approve the application; or (w) condition the approval of an application on, or otherwise require, the applicant's agreement to permit the county or municipality to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a county or municipality or an entity in which a county or municipality has a governance, competitive, economic, financial or other interest.

Define substantial modification as the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following: (a) for structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet; (b) for structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more; (c) measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation; or (d) increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet. Define equipment compound as an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities. Define existing structure as a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a county or municipality. Define fall zone as the area over which a mobile support structure is designed to collapse. Prohibit a county or municipality from charging a mobile radio service provider a fee in excess of: (a) the lesser of \$500 or the amount charged by a county or municipality for a building permit for any other type of commercial development or land use development if the permit is for a class 2 collocation; or (b) \$3,000 if the permit is for

the siting and construction of a new mobile service support structure and facilities or a class 1 collocation.

Specify that if a county enacts an ordinance under this proposal that pertains to new structures and class 1 collocations, the ordinance applies only in the unincorporated parts of the county, except that if a town enacts an ordinance under this proposal that pertains to new structures and class 1 collocations after a county has so acted, the county ordinance does not apply, and may not be enforced, in the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

Specify that these provisions would first apply to an application filed with a county or municipality on the bill's general effective date.

Commercial and Non-Commercial Radio Broadcast Facilities. Specify that if a town board or a city enacts an ordinance, adopts a resolution, or takes any other action on or after May 1, 2013, or continues to enforce an ordinance, resolution, or other action after May 1, 2013, that affects the placement, construction, or modification of commercial and non-commercial radio broadcast service facilities, all of the following would apply: (a) the ordinance or other action must have a reasonable and clearly defined public health or safety objective and represent the minimum practical regulation that is necessary to accomplish those objectives; (b) the ordinance or other action must reasonably accommodate commercial radio broadcast services and cannot prohibit or have the effect of prohibiting the provision of such services in that jurisdiction; and (c) any decision by the town or city to deny a request to place, construct, or modify a commercial radio broadcast service facility must be in writing, based solely on public health or safety objectives and supported by substantial evidence contained in a written record.

not
in
LRB
0062/2
contact
Dave
Loppnow
6-3949

Specify that radio broadcast services would mean the regular provision of a service involving the transmission, emission, and/or reception of radio waves for the transmission of sound or images in which the transmissions are intended for direct reception by the general public. Radio broadcast service facilities would mean facilities, including but not limited to antennas and antenna support structures, intended for the provision of radio broadcast services.

Note:

This proposal, with the exception of the commercial radio broadcast facilities provisions, is identical to LRB 0062/2. The Legislative Reference Bureau provides the following analysis of that draft:

"Generally under current law, a city, village, town, or county (political subdivision) may exercise broad authority through its zoning powers with respect to certain activities involving facilities and support structures for providing wireless telecommunications service, which federal law refers to as mobile service. This bill limits that authority. The bill defines "facility" as the set of equipment and network components, including antennas, transmitters, and base stations, that is necessary to provide mobile service to a particular geographic area, but does not include the underlying support structure. The bill creates a standardized framework for a political

subdivision to regulate the new construction, modification, or collocation of a facility and its support structure, and limits a political subdivision's ability to regulate such activities through its zoning authority.

Under the bill, a political subdivision may enact a zoning ordinance, subject to the limitations created in the bill, to regulate the siting and construction of a new mobile service support structure and facilities, and a class one collocation, which is defined as the placement of a new facility on an existing support structure such that the owner of the facility must substantially modify the support structure. To engage in the activity described above, the political subdivision must prescribe an application process for the owner of the facility who wishes to construct a new support structure or engage in a class one collocation. A political subdivision may charge a mobile radio service provider (provider) a fee of not more than \$3,000 for a permit to engage in such an activity.

The application must include a description of the construction plan to build a new support structure or substantially modify an existing support structure, as well as an explanation from the owner as to why the owner proposes to construct a new support structure instead of engaging in collocation.

The bill also creates a standardized framework for a political subdivision to regulate the class two collocation of a facility and limits a political subdivision's ability to regulate a class two collocation through its zoning authority. A class two collocation is defined as the placement of a new facility on an existing support structure such that the owner of the facility does not need to substantially modify the structure. Under the bill, a class two collocation is a permitted use under a political subdivision's zoning authority, and may be subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject. For a class 2 collocation, a political subdivision may charge a provider a permit fee of the lesser of \$500 or the amount the political subdivision charges for a building permit for other commercial or land use development.

The bill prescribes certain deadlines by which a political subdivision must notify the applicant in writing that an application is not complete or, if complete, whether the application is approved. A political subdivision's disapproval of an application must contain substantial evidence which supports the decision. If the political subdivision does not complete its review of the application, notify the applicant in writing of its final decision, and take other specified actions within the statutorily prescribed deadlines, the applicant may consider the application approved. Generally, the deadline for a political subdivision to complete its review and decide whether to approve an application for new construction of a support structure and facilities or a class one collocation is 90 days after receipt of a complete application, and the deadline is 45 days after receipt of a complete application for a class two collocation. By mutual agreement, the parties may agree in writing to extend those deadlines. With regard to an application for the construction of a new support structure, a political subdivision may disapprove such an application if the applicant refuses to evaluate the feasibility of collocation and explain why collocation would not be the best choice for the project.

If a political subdivision has in effect on the effective date of the bill an ordinance that applies to the siting and construction of a new mobile service support structure and facilities, a

class one collocation, or a class two collocation (activities), which is inconsistent with the procedures required in the bill, the ordinance does not apply and may not be enforced.

With regard to activities, the bill prohibits a political subdivision from engaging in a number of specified actions, including the following:

1. Imposing environmental testing or monitoring requirements on facilities or mobile radio service providers.
2. Imposing a moratorium on the permitting, construction, or approval of activities.
3. Disapproving an application based solely on aesthetic concerns.
4. Requiring that a support structure be placed on property owned by the political subdivision.
5. Limiting the duration of any permit that is granted.
6. Disapproving of an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity."

[Change to Bill: None]



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0146/1

MES&MDK:::.....

6/1
sac

OK in (FA)
LFB:..... *MM* (DL) – Motion # 151; Mobile tower siting regulations, political
subdivision zoning restrictions

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 40

1 At the locations indicated, amend the bill as follows:

2 1. Page 630, line 16: after that line insert:

3

MM
(END)





State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0062/2
MES&MDK:sac;jm

2013 BILL

1 **AN ACT** *to create* 66.0404 of the statutes; **relating to:** creating uniform
2 standards for the local regulation of mobile telecommunications facilities.

Analysis by the Legislative Reference Bureau

Generally under current law, a city, village, town, or county (political subdivision) may exercise broad authority through its zoning powers with respect to certain activities involving facilities and support structures for providing wireless telecommunications service, which federal law refers to as mobile service. This bill limits that authority. The bill defines "facility" as the set of equipment and network components, including antennas, transmitters, and base stations, that is necessary to provide mobile service to a particular geographic area, but does not include the underlying support structure. The bill creates a standardized framework for a political subdivision to regulate the new construction, modification, or collocation of a facility and its support structure, and limits a political subdivision's ability to regulate such activities through its zoning authority.

Under the bill, a political subdivision may enact a zoning ordinance, subject to the limitations created in the bill, to regulate the siting and construction of a new mobile service support structure and facilities, and a class one collocation, which is defined as the placement of a new facility on an existing support structure such that the owner of the facility must substantially modify the support structure. To engage in the activity described above, the political subdivision must prescribe an application process for the owner of the facility who wishes to construct a new support structure or engage in a class one collocation. A political subdivision may charge a mobile radio service provider (provider) a fee of not more than \$3,000 for a permit to engage in such an activity.

BILL

The application must include a description of the construction plan to build a new support structure or substantially modify an existing support structure, as well as an explanation from the owner as to why the owner proposes to construct a new support structure instead of engaging in collocation.

The bill also creates a standardized framework for a political subdivision to regulate the class two collocation of a facility and limits a political subdivision's ability to regulate a class two collocation through its zoning authority. A class two collocation is defined as the placement of a new facility on an existing support structure such that the owner of the facility does not need to substantially modify the structure. Under the bill, a class two collocation is a permitted use under a political subdivision's zoning authority, and may be subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject. For a class 2 collocation, a political subdivision may charge a provider a permit fee of the lesser of \$500 or the amount the political subdivision charges for a building permit for other commercial or land use development.

The bill prescribes certain deadlines by which a political subdivision must notify the applicant in writing that an application is not complete or, if complete, whether the application is approved. A political subdivision's disapproval of an application must contain substantial evidence which supports the decision. If the political subdivision does not complete its review of the application, notify the applicant in writing of its final decision, and take other specified actions within the statutorily prescribed deadlines, the applicant may consider the application approved. Generally, the deadline for a political subdivision to complete its review and decide whether to approve an application for new construction of a support structure and facilities or a class one collocation is 90 days after receipt of a complete application, and the deadline is 45 days after receipt of a complete application for a class two collocation. By mutual agreement, the parties may agree in writing to extend those deadlines. With regard to an application for the construction of a new support structure, a political subdivision may disapprove such an application if the applicant refuses to evaluate the feasibility of collocation and explain why collocation would not be the best choice for the project.

If a political subdivision has in effect on the effective date of the bill an ordinance that applies to the siting and construction of a new mobile service support structure and facilities, a class one collocation, or a class two collocation (activities), which is inconsistent with the procedures required in the bill, the ordinance does not apply and may not be enforced.

With regard to activities, the bill prohibits a political subdivision from engaging in a number of specified actions, including the following:

1. Imposing environmental testing or monitoring requirements on facilities or mobile radio service providers.
2. Imposing a moratorium on the permitting, construction, or approval of activities.
3. Disapproving an application based solely on aesthetic concerns.

BILL

4. Requiring that a support structure be placed on property owned by the political subdivision.

5. Limiting the duration of any permit that is granted.

6. Disapproving of an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

11
12691
1 SECTION 66.0404 of the statutes is created to read:

2 **66.0404 Mobile tower siting regulations.** (1) DEFINITIONS. In this section:

3 (a) "Antenna" means communications equipment that transmits and receives
4 electromagnetic radio signals and is used in the provision of mobile services.

5 (b) "Application" means an application for a permit under this section to engage
6 in an activity specified in sub. (2) (a) or a class 2 collocation.

7 (c) "Building permit" means a permit issued by a political subdivision that
8 authorizes an applicant to conduct construction activity that is consistent with the
9 political subdivision's building code.

10 (d) "Class 1 collocation" means the placement of a new mobile service facility
11 on an existing support structure such that the owner of the facility does not need to
12 construct a free standing support structure for the facility but does need to engage
13 in substantial modification.

14 (e) "Class 2 collocation" means the placement of a new mobile service facility
15 on an existing support structure such that the owner of the facility does not need to
16 construct a free standing support structure for the facility or engage in substantial
17 modification.

18 (f) "Collocation" means class 1 or class 2 collocation or both.

BILL**SECTION 1**

1 (g) “Distributed antenna system” means a network of spatially separated
2 antenna nodes that is connected to a common source via a transport medium and that
3 provides mobile service within a geographic area or structure.

4 (h) “Equipment compound” means an area surrounding or adjacent to the base
5 of an existing support structure within which is located mobile service facilities.

6 (i) “Existing structure” means a support structure that exists at the time a
7 request for permission to place mobile service facilities on a support structure is filed
8 with a political subdivision.

9 (j) “Fall zone” means the area over which a mobile support structure is designed
10 to collapse.

11 (k) “Mobile service” has the meaning given in 47 USC 153 (33).

12 (L) “Mobile service provider” means a person who provides mobile service.

13 (m) “Mobile service facility” means the set of equipment and network
14 components, including antennas, transmitters, receivers, base stations, power
15 supplies, cabling, and associated equipment, that is necessary to provide mobile
16 service to a discrete geographic area, but does not include the underlying support
17 structure.

18 (n) “Mobile service support structure” means a freestanding structure that is
19 designed to support a mobile service facility.

20 (o) “Permit” means a permit, other than a building permit, or approval issued
21 by a political subdivision which authorizes any of the following activities by an
22 applicant:

- 23 1. A class 1 collocation.
- 24 2. A class 2 collocation.
- 25 3. The construction of a mobile service support structure.

BILL

(p) “Political subdivision” means a city, village, town, or county.

(q) “Public utility” has the meaning given in s. 196.01 (5).

(r) “Search ring” means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

(s) “Substantial modification” means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.

2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.

3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.

4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

(t) “Support structure” means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

(u) “Utility pole” means a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01 (1d); public utility, as defined in s. 196.01 (5); telecommunications utility, as defined in s. 196.01 (10); political subdivision; or cooperative association organized under ch. 185; and that is designed

BILL**SECTION 1**

1 specifically for and used to carry lines, cables, or wires for telecommunications
2 service, as defined in s. 182.017 (1g) (cq); video service, as defined in s. 66.0420 (2)
3 (y); for electricity; or to provide light.

4 (2) NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATION OF FACILITIES AND SUPPORT
5 STRUCTURES. (a) Subject to the provisions and limitations of this section, a political
6 subdivision may enact a zoning ordinance under s. 59.69, 60.61, or 62.23 to regulate
7 any of the following activities:

8 1. The siting and construction of a new mobile service support structure and
9 facilities.

10 2. With regard to a class 1 collocation, the substantial modification of an
11 existing support structure and mobile service facilities.

12 (b) If a political subdivision regulates an activity described under par. (a), the
13 regulation shall prescribe the application process which a person must complete to
14 engage in the siting, construction, or modification activities described in par. (a). The
15 application shall be in writing and shall contain all of the following information:

16 1. The name and business address of, and the contact individual for, the
17 applicant.

18 2. The location of the proposed or affected support structure.

19 3. The location of the proposed mobile service facility.

20 4. If the application is to substantially modify an existing support structure,
21 a construction plan which describes the proposed modifications to the support
22 structure and the equipment and network components, including antennas,
23 transmitters, receivers, base stations, power supplies, cabling, and related
24 equipment associated with the proposed modifications.

BILL

1 5. If the application is to construct a new mobile service support structure, a
2 construction plan which describes the proposed mobile service support structure and
3 the equipment and network components, including antennas, transmitters,
4 receivers, base stations, power supplies, cabling, and related equipment to be placed
5 on or around the new mobile service support structure.

6 6. If an application is to construct a new mobile service support structure, an
7 explanation as to why the applicant chose the proposed location and why the
8 applicant did not choose collocation, including a sworn statement from an individual
9 who has responsibility over the placement of the mobile service support structure
10 attesting that collocation within the applicant's search ring would not result in the
11 same mobile service functionality, coverage, and capacity; is technically infeasible;
12 or is economically burdensome to the mobile service provider.

13 (c) If an applicant submits to a political subdivision an application for a permit
14 to engage in an activity described under par. (a), which contains all of the information
15 required under par. (b), the political subdivision shall consider the application
16 complete. If the political subdivision does not believe that the application is
17 complete, the political subdivision shall notify the applicant in writing, within 10
18 days of receiving the application, that the application is not complete. The written
19 notification shall specify in detail the required information that was incomplete. An
20 applicant may resubmit an application as often as necessary until it is complete.

21 (d) Within 90 days of its receipt of a complete application, a political subdivision
22 shall complete all of the following or the applicant may consider the application
23 approved, except that the applicant and the political subdivision may agree in
24 writing to an extension of the 90 day period:

BILL**SECTION 1**

1 1. Review the application to determine whether it complies with all applicable
2 aspects of the political subdivision's building code and, subject to the limitations in
3 this section, zoning ordinances.

4 2. Make a final decision whether to approve or disapprove the application.

5 3. Notify the applicant, in writing, of its final decision.

6 4. If the decision is to disapprove the application, include with the written
7 notification substantial evidence which supports the decision.

8 (e) A political subdivision may disapprove an application if an applicant refuses
9 to evaluate the feasibility of collocation within the applicant's search ring and
10 provide the sworn statement described under par. (b) 6.

11 (f) A party who is aggrieved by the final decision of a political subdivision under
12 par. (d) 2. may bring an action in the circuit court of the county in which the proposed
13 activity, which is the subject of the application, is to be located.

14 (g) If an applicant provides a political subdivision with an engineering
15 certification showing that a mobile service support structure, or an existing
16 structure, is designed to collapse within a smaller area than the set back or fall zone
17 area required in a zoning ordinance, that zoning ordinance does not apply to such a
18 structure unless the political subdivision provides the applicant with substantial
19 evidence that the engineering certification is flawed.

20 (h) A political subdivision may regulate the activities described under par. (a)
21 only as provided in this section.

22 (i) If a political subdivision has in effect on the effective date of this subdivision
23 [LRB inserts date], an ordinance that applies to the activities described under par.

24 (a) and the ordinance is inconsistent with this section, the ordinance does not apply
25 to, and may not be enforced against, the activity.

BILL

1 **(3) COLLOCATION ON EXISTING SUPPORT STRUCTURES.** (a) 1. A class 2 collocation
2 is a permitted use under ss. 59.69, 60.61, and 62.23.

3 2. If a political subdivision has in effect on the effective date of this subdivision
4 [LRB inserts date], an ordinance that applies to a class 2 collocation and the
5 ordinance is inconsistent with this section, the ordinance does not apply to, and may
6 not be enforced against, the class 2 collocation.

7 3. A political subdivision may regulate a class 2 collocation only as provided in
8 this section.

9 4. A class 2 collocation is subject to the same requirements for the issuance of
10 a building permit to which any other type of commercial development or land use
11 development is subject.

12 (b) If an applicant submits to a political subdivision an application for a permit
13 to engage in a class 2 collocation, the application shall contain all of the information
14 required under sub. (2) (b) 1. to 3., in which case the political subdivision shall
15 consider the application complete. If any of the required information is not in the
16 application, the political subdivision shall notify the applicant in writing, within 5
17 days of receiving the application, that the application is not complete. The written
18 notification shall specify in detail the required information that was incomplete. An
19 applicant may resubmit an application as often as necessary until it is complete.

20 (c) Within 45 days of its receipt of a complete application, a political subdivision
21 shall complete all of the following or the applicant may consider the application
22 approved, except that the applicant and the political subdivision may agree in
23 writing to an extension of the 45 day period:

24 1. Make a final decision whether to approve or disapprove the application.

25 2. Notify the applicant, in writing, of its final decision.

BILL**SECTION 1**

1 3. If the application is approved, issue the applicant the relevant permit.

2 4. If the decision is to disapprove the application, include with the written
3 notification substantial evidence which supports the decision.

4 (d) A party who is aggrieved by the final decision of a political subdivision under
5 par. (c) 1. may bring an action in the circuit court of the county in which the proposed
6 activity, which is the subject of the application, is to be located.

7 (4) LIMITATIONS. With regard to an activity described in sub. (2) (a) or a class
8 2 collocation, a political subdivision may not do any of the following:

9 (a) Impose environmental testing, sampling, or monitoring requirements, or
10 other compliance measures for radio frequency emissions, on mobile service facilities
11 or mobile radio service providers.

12 (b) Enact an ordinance imposing a moratorium on the permitting, construction,
13 or approval of any such activities.

14 (c) Enact an ordinance prohibiting the placement of a mobile service support
15 structure in particular locations within the political subdivision.

16 (d) Charge a mobile radio service provider a fee in excess of one of the following
17 amounts:

18 1. For a permit for a class 2 collocation, the lesser of \$500 or the amount charged
19 by a political subdivision for a building permit for any other type of commercial
20 development or land use development.

21 2. For a permit for an activity described in sub. (2) (a), \$3,000.

22 (e) Charge a mobile radio service provider any recurring fee for an activity
23 described in sub. (2) (a) or a class 2 collocation.

24 (f) Permit 3rd party consultants to charge the applicant for any travel expenses
25 incurred in the consultant's review of mobile service permits or applications.

BILL

1 (g) Disapprove an application to conduct an activity described under sub. (2)
2 (a) based solely on aesthetic concerns.

3 (gm) Disapprove an application to conduct a class 2 collocation on aesthetic
4 concerns.

5 (h) Enact or enforce an ordinance related to radio frequency signal strength or
6 the adequacy of mobile service quality.

7 (i) Impose a surety requirement, unless the requirement is competitively
8 neutral, nondiscriminatory, and commensurate with the historical record for surety
9 requirements for other facilities and structures in the political subdivision which fall
10 into disuse. There is a rebuttable presumption that a surety requirement of \$20,000
11 or less complies with this paragraph.

12 (j) Prohibit the placement of emergency power systems.

13 (k) Require that a mobile service support structure be placed on property owned
14 by the political subdivision.

15 (L) Disapprove an application based solely on the height of the mobile service
16 support structure or on whether the structure requires lighting.

17 (m) Condition approval of such activities on the agreement of the structure or
18 mobile service facility owner to provide space on or near the structure for the use of
19 or by the political subdivision at less than the market rate, or to provide the political
20 subdivision other services via the structure or facilities at less than the market rate.

21 (n) Limit the duration of any permit that is granted.

22 (o) Require an applicant to construct a distributed antenna system instead of
23 either constructing a new mobile service support structure or engaging in
24 collocation.

BILL**SECTION 1**

1 (p) Disapprove an application based on an assessment by the political
2 subdivision of the suitability of other locations for conducting the activity.

3 (q) Require that a mobile service support structure, existing structure, or
4 mobile service facilities have or be connected to backup battery power.

5 (r) Impose a setback or fall zone requirement for a mobile service support
6 structure that is different from a requirement that is imposed on other types of
7 commercial structures.

8 (s) Consider an activity a substantial modification under sub. (1) (s) 1. or 2. if
9 a greater height is necessary to avoid interference with an existing antenna.

10 (t) Consider an activity a substantial modification under sub. (1) (s) 3. if a
11 greater protrusion is necessary to shelter the antenna from inclement weather or to
12 connect the antenna to the existing structure by cable.

13 (u) Limit the height of a mobile service support structure to under 200 feet.

14 (v) Condition the approval of an application on, or otherwise require, the
15 applicant's agreement to indemnify or insure the political subdivision in connection
16 with the political subdivision's exercise of its authority to approve the application.

17 (w) Condition the approval of an application on, or otherwise require, the
18 applicant's agreement to permit the political subdivision to place at or collocate with
19 the applicant's support structure any mobile service facilities provided or operated
20 by, whether in whole or in part, a political subdivision or an entity in which a political
21 subdivision has a governance, competitive, economic, financial or other interest.

22 (5) APPLICABILITY. If a county enacts an ordinance as described under sub. (2)
23 the ordinance applies only in the unincorporated parts of the county, except that if
24 a town enacts an ordinance as described under sub. (2) after a county has so acted,

BILL

1 the county ordinance does not apply, and may not be enforced, in the town, except
2 that if the town later repeals its ordinance, the county ordinance applies in that town. //

3 ~~SECTION 2. Initial applicability.~~

4 ~~(1) This act~~ *The creation of section 66.0404 of the statutes*
5 subdivision on the effective date of this subsection. //

6 (END)

{ #. Page 1064, line 14: after that line
insert:



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0146/1
MES&MDK:sac:rs

LFB:.....Olin (FA) – Motion # 151; Mobile tower siting regulations, political subdivision zoning restrictions

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 40

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 630, line 16: after that line insert:
- 3 **“SECTION 1269i.** 66.0404 of the statutes is created to read:
- 4 **66.0404 Mobile tower siting regulations. (1) DEFINITIONS.** In this section:
- 5 (a) “Antenna” means communications equipment that transmits and receives
- 6 electromagnetic radio signals and is used in the provision of mobile services.
- 7 (b) “Application” means an application for a permit under this section to engage
- 8 in an activity specified in sub. (2) (a) or a class 2 collocation.
- 9 (c) “Building permit” means a permit issued by a political subdivision that
- 10 authorizes an applicant to conduct construction activity that is consistent with the
- 11 political subdivision’s building code.

1 (d) “Class 1 collocation” means the placement of a new mobile service facility
2 on an existing support structure such that the owner of the facility does not need to
3 construct a free standing support structure for the facility but does need to engage
4 in substantial modification.

5 (e) “Class 2 collocation” means the placement of a new mobile service facility
6 on an existing support structure such that the owner of the facility does not need to
7 construct a free standing support structure for the facility or engage in substantial
8 modification.

9 (f) “Collocation” means class 1 or class 2 collocation or both.

10 (g) “Distributed antenna system” means a network of spatially separated
11 antenna nodes that is connected to a common source via a transport medium and that
12 provides mobile service within a geographic area or structure.

13 (h) “Equipment compound” means an area surrounding or adjacent to the base
14 of an existing support structure within which is located mobile service facilities.

15 (i) “Existing structure” means a support structure that exists at the time a
16 request for permission to place mobile service facilities on a support structure is filed
17 with a political subdivision.

18 (j) “Fall zone” means the area over which a mobile support structure is designed
19 to collapse.

20 (k) “Mobile service” has the meaning given in 47 USC 153 (33).

21 (L) “Mobile service provider” means a person who provides mobile service.

22 (m) “Mobile service facility” means the set of equipment and network
23 components, including antennas, transmitters, receivers, base stations, power
24 supplies, cabling, and associated equipment, that is necessary to provide mobile

1 service to a discrete geographic area, but does not include the underlying support
2 structure.

3 (n) “Mobile service support structure” means a freestanding structure that is
4 designed to support a mobile service facility.

5 (o) “Permit” means a permit, other than a building permit, or approval issued
6 by a political subdivision which authorizes any of the following activities by an
7 applicant:

8 1. A class 1 collocation.

9 2. A class 2 collocation.

10 3. The construction of a mobile service support structure.

11 (p) “Political subdivision” means a city, village, town, or county.

12 (q) “Public utility” has the meaning given in s. 196.01 (5).

13 (r) “Search ring” means a shape drawn on a map to indicate the general area
14 within which a mobile service support structure should be located to meet radio
15 frequency engineering requirements, taking into account other factors including
16 topography and the demographics of the service area.

17 (s) “Substantial modification” means the modification of a mobile service
18 support structure, including the mounting of an antenna on such a structure, that
19 does any of the following:

20 1. For structures with an overall height of 200 feet or less, increases the overall
21 height of the structure by more than 20 feet.

22 2. For structures with an overall height of more than 200 feet, increases the
23 overall height of the structure by 10 percent or more.

1 3. Measured at the level of the appurtenance added to the structure as a result
2 of the modification, increases the width of the support structure by 20 feet or more,
3 unless a larger area is necessary for collocation.

4 4. Increases the square footage of an existing equipment compound to a total
5 area of more than 2,500 square feet.

6 (t) “Support structure” means an existing or new structure that supports or can
7 support a mobile service facility, including a mobile service support structure, utility
8 pole, water tower, building, or other structure.

9 (u) “Utility pole” means a structure owned or operated by an alternative
10 telecommunications utility, as defined in s. 196.01 (1d); public utility, as defined in
11 s. 196.01 (5); telecommunications utility, as defined in s. 196.01 (10); political
12 subdivision; or cooperative association organized under ch. 185; and that is designed
13 specifically for and used to carry lines, cables, or wires for telecommunications
14 service, as defined in s. 182.017 (1g) (cq); video service, as defined in s. 66.0420 (2)
15 (y); for electricity; or to provide light.

16 **(2) NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATION OF FACILITIES AND SUPPORT**
17 **STRUCTURES.** (a) Subject to the provisions and limitations of this section, a political
18 subdivision may enact a zoning ordinance under s. 59.69, 60.61, or 62.23 to regulate
19 any of the following activities:

20 1. The siting and construction of a new mobile service support structure and
21 facilities.

22 2. With regard to a class 1 collocation, the substantial modification of an
23 existing support structure and mobile service facilities.

24 (b) If a political subdivision regulates an activity described under par. (a), the
25 regulation shall prescribe the application process which a person must complete to

1 engage in the siting, construction, or modification activities described in par. (a). The
2 application shall be in writing and shall contain all of the following information:

3 1. The name and business address of, and the contact individual for, the
4 applicant.

5 2. The location of the proposed or affected support structure.

6 3. The location of the proposed mobile service facility.

7 4. If the application is to substantially modify an existing support structure,
8 a construction plan which describes the proposed modifications to the support
9 structure and the equipment and network components, including antennas,
10 transmitters, receivers, base stations, power supplies, cabling, and related
11 equipment associated with the proposed modifications.

12 5. If the application is to construct a new mobile service support structure, a
13 construction plan which describes the proposed mobile service support structure and
14 the equipment and network components, including antennas, transmitters,
15 receivers, base stations, power supplies, cabling, and related equipment to be placed
16 on or around the new mobile service support structure.

17 6. If an application is to construct a new mobile service support structure, an
18 explanation as to why the applicant chose the proposed location and why the
19 applicant did not choose collocation, including a sworn statement from an individual
20 who has responsibility over the placement of the mobile service support structure
21 attesting that collocation within the applicant's search ring would not result in the
22 same mobile service functionality, coverage, and capacity; is technically infeasible;
23 or is economically burdensome to the mobile service provider.

24 (c) If an applicant submits to a political subdivision an application for a permit
25 to engage in an activity described under par. (a), which contains all of the information

1 required under par. (b), the political subdivision shall consider the application
2 complete. If the political subdivision does not believe that the application is
3 complete, the political subdivision shall notify the applicant in writing, within 10
4 days of receiving the application, that the application is not complete. The written
5 notification shall specify in detail the required information that was incomplete. An
6 applicant may resubmit an application as often as necessary until it is complete.

7 (d) Within 90 days of its receipt of a complete application, a political subdivision
8 shall complete all of the following or the applicant may consider the application
9 approved, except that the applicant and the political subdivision may agree in
10 writing to an extension of the 90 day period:

11 1. Review the application to determine whether it complies with all applicable
12 aspects of the political subdivision's building code and, subject to the limitations in
13 this section, zoning ordinances.

14 2. Make a final decision whether to approve or disapprove the application.

15 3. Notify the applicant, in writing, of its final decision.

16 4. If the decision is to disapprove the application, include with the written
17 notification substantial evidence which supports the decision.

18 (e) A political subdivision may disapprove an application if an applicant refuses
19 to evaluate the feasibility of collocation within the applicant's search ring and
20 provide the sworn statement described under par. (b) 6.

21 (f) A party who is aggrieved by the final decision of a political subdivision under
22 par. (d) 2. may bring an action in the circuit court of the county in which the proposed
23 activity, which is the subject of the application, is to be located.

24 (g) If an applicant provides a political subdivision with an engineering
25 certification showing that a mobile service support structure, or an existing

1 structure, is designed to collapse within a smaller area than the set back or fall zone
2 area required in a zoning ordinance, that zoning ordinance does not apply to such a
3 structure unless the political subdivision provides the applicant with substantial
4 evidence that the engineering certification is flawed.

5 (h) A political subdivision may regulate the activities described under par. (a)
6 only as provided in this section.

7 (i) If a political subdivision has in effect on the effective date of this subdivision
8 [LRB inserts date], an ordinance that applies to the activities described under par.
9 (a) and the ordinance is inconsistent with this section, the ordinance does not apply
10 to, and may not be enforced against, the activity.

11 **(3) COLLOCATION ON EXISTING SUPPORT STRUCTURES.** (a) 1. A class 2 collocation
12 is a permitted use under ss. 59.69, 60.61, and 62.23.

13 2. If a political subdivision has in effect on the effective date of this subdivision
14 [LRB inserts date], an ordinance that applies to a class 2 collocation and the
15 ordinance is inconsistent with this section, the ordinance does not apply to, and may
16 not be enforced against, the class 2 collocation.

17 3. A political subdivision may regulate a class 2 collocation only as provided in
18 this section.

19 4. A class 2 collocation is subject to the same requirements for the issuance of
20 a building permit to which any other type of commercial development or land use
21 development is subject.

22 (b) If an applicant submits to a political subdivision an application for a permit
23 to engage in a class 2 collocation, the application shall contain all of the information
24 required under sub. (2) (b) 1. to 3., in which case the political subdivision shall
25 consider the application complete. If any of the required information is not in the

1 application, the political subdivision shall notify the applicant in writing, within 5
2 days of receiving the application, that the application is not complete. The written
3 notification shall specify in detail the required information that was incomplete. An
4 applicant may resubmit an application as often as necessary until it is complete.

5 (c) Within 45 days of its receipt of a complete application, a political subdivision
6 shall complete all of the following or the applicant may consider the application
7 approved, except that the applicant and the political subdivision may agree in
8 writing to an extension of the 45 day period:

- 9 1. Make a final decision whether to approve or disapprove the application.
- 10 2. Notify the applicant, in writing, of its final decision.
- 11 3. If the application is approved, issue the applicant the relevant permit.
- 12 4. If the decision is to disapprove the application, include with the written
13 notification substantial evidence which supports the decision.

14 (d) A party who is aggrieved by the final decision of a political subdivision under
15 par. (c) 1. may bring an action in the circuit court of the county in which the proposed
16 activity, which is the subject of the application, is to be located.

17 (4) LIMITATIONS. With regard to an activity described in sub. (2) (a) or a class
18 2 collocation, a political subdivision may not do any of the following:

19 (a) Impose environmental testing, sampling, or monitoring requirements, or
20 other compliance measures for radio frequency emissions, on mobile service facilities
21 or mobile radio service providers.

22 (b) Enact an ordinance imposing a moratorium on the permitting, construction,
23 or approval of any such activities.

24 (c) Enact an ordinance prohibiting the placement of a mobile service support
25 structure in particular locations within the political subdivision.

1 (d) Charge a mobile radio service provider a fee in excess of one of the following
2 amounts:

3 1. For a permit for a class 2 collocation, the lesser of \$500 or the amount charged
4 by a political subdivision for a building permit for any other type of commercial
5 development or land use development.

6 2. For a permit for an activity described in sub. (2) (a), \$3,000.

7 (e) Charge a mobile radio service provider any recurring fee for an activity
8 described in sub. (2) (a) or a class 2 collocation.

9 (f) Permit 3rd party consultants to charge the applicant for any travel expenses
10 incurred in the consultant's review of mobile service permits or applications.

11 (g) Disapprove an application to conduct an activity described under sub. (2)
12 (a) based solely on aesthetic concerns.

13 (gm) Disapprove an application to conduct a class 2 collocation on aesthetic
14 concerns.

15 (h) Enact or enforce an ordinance related to radio frequency signal strength or
16 the adequacy of mobile service quality.

17 (i) Impose a surety requirement, unless the requirement is competitively
18 neutral, nondiscriminatory, and commensurate with the historical record for surety
19 requirements for other facilities and structures in the political subdivision which fall
20 into disuse. There is a rebuttable presumption that a surety requirement of \$20,000
21 or less complies with this paragraph.

22 (j) Prohibit the placement of emergency power systems.

23 (k) Require that a mobile service support structure be placed on property owned
24 by the political subdivision.

1 (L) Disapprove an application based solely on the height of the mobile service
2 support structure or on whether the structure requires lighting.

3 (m) Condition approval of such activities on the agreement of the structure or
4 mobile service facility owner to provide space on or near the structure for the use of
5 or by the political subdivision at less than the market rate, or to provide the political
6 subdivision other services via the structure or facilities at less than the market rate.

7 (n) Limit the duration of any permit that is granted.

8 (o) Require an applicant to construct a distributed antenna system instead of
9 either constructing a new mobile service support structure or engaging in
10 collocation.

11 (p) Disapprove an application based on an assessment by the political
12 subdivision of the suitability of other locations for conducting the activity.

13 (q) Require that a mobile service support structure, existing structure, or
14 mobile service facilities have or be connected to backup battery power.

15 (r) Impose a setback or fall zone requirement for a mobile service support
16 structure that is different from a requirement that is imposed on other types of
17 commercial structures.

18 (s) Consider an activity a substantial modification under sub. (1) (s) 1. or 2. if
19 a greater height is necessary to avoid interference with an existing antenna.

20 (t) Consider an activity a substantial modification under sub. (1) (s) 3. if a
21 greater protrusion is necessary to shelter the antenna from inclement weather or to
22 connect the antenna to the existing structure by cable.

23 (u) Limit the height of a mobile service support structure to under 200 feet.

1 (v) Condition the approval of an application on, or otherwise require, the
2 applicant's agreement to indemnify or insure the political subdivision in connection
3 with the political subdivision's exercise of its authority to approve the application.

4 (w) Condition the approval of an application on, or otherwise require, the
5 applicant's agreement to permit the political subdivision to place at or collocate with
6 the applicant's support structure any mobile service facilities provided or operated
7 by, whether in whole or in part, a political subdivision or an entity in which a political
8 subdivision has a governance, competitive, economic, financial or other interest.

9 (5) APPLICABILITY. If a county enacts an ordinance as described under sub. (2)
10 the ordinance applies only in the unincorporated parts of the county, except that if
11 a town enacts an ordinance as described under sub. (2) after a county has so acted,
12 the county ordinance does not apply, and may not be enforced, in the town, except
13 that if the town later repeals its ordinance, the county ordinance applies in that
14 town.”.

15 **2.** Page 1064, line 14: after that line insert:

16 “(1u) The creation of section 66.0404 of the statutes first applies to an
17 application that is filed with a political subdivision on the effective date of this
18 subsection.”.

19 (END)